

# EXHIBIT 40

11/28/2018 James E. O'Keefe, III

Attorneys Eyes Only

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION

RICHARD L. CAMPBELL, )  
)  
Plaintiff, )  
) Case No.  
vs. ) 1:17-cv-00129-MR-DLH  
)  
SHIRLEY TETER and SINCLAIR )  
COMMUNICATIONS, INC., )  
)  
Defendants. )  
-----  
SHIRLEY TETER, )  
)  
Plaintiff, )  
) Case No.  
vs. ) 1:17-cv-00256-MR-DLH  
)  
PROJECT VERITAS ACTION FUND, )  
et al., )  
)  
Defendants. )  
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\* \* \*ATTORNEYS' EYES ONLY\* \* \*

VIDEOTAPED DEPOSITION OF JAMES E. O'KEEFE, III

(Taken by Attorneys for Shirley Teter)

Winston-Salem, North Carolina

Wednesday, November 28, 2018

Reported in Stenotype by  
Jana F. Collins  
Transcript produced by computer-aided transcription

## 1 APPEARANCES

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15 FUND and JAMES E. O'KEEFE, III:

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19 ALSO PRESENT: BRAD CARTNER, Videographer  
20  
21  
22  
23  
24  
25

1 Q Use a different name every time?

2 A Not necessarily.

3 Q Have you used as many as 200 fictitious names?

4 A Possibly.

5 Q Has anybody referred to you as a provocateur?

6 A Yes.

7 Q What do you understand that to mean?

8 A Someone who provokes.

9 Q Do you do that?

10 A The work often does provoke reactions.

11 Q Do you deliberately provoke people?

12 A I wouldn't characterize it as that, no.

13 Q How would you characterize it?

14 A We accurately report what people say and do in  
15 order to expose reality and give truth to the masses.

16 Q And in getting people to do that generally,  
17 Project Veritas lies to them; is that right?

18 A Not necessarily. In some case, we use an  
19 alias.

20 Q In some case, you directly lie to the person  
21 you're trying to provoke a statement from; is that  
22 right?

23 MR. DEAN: Object. Misstates his prior  
24 testimony.

25 A Repeat the question.

1 MR. SASSER: Can you read that back?

2 (QUESTION WAS READ BACK BY COURT REPORTER)

3 A I wouldn't characterize it as lying.

4 Q How would you characterize it?

5 A I suppose guerrilla theater in order to elicit  
6 truthful statements so that we can tell the truth to  
7 the public because we believe that the truth is  
8 paramount. And oftentimes, the only way to get to the  
9 truth is to dig deep, the way that investigative  
10 reporters have done for a hundred years.

11 Q Are you saying that the only way to get to the  
12 truth sometimes is to lie?

13 A I'm saying that Pulitzer price winning  
14 reporters for the last 100 years have made statements  
15 to that effect.

16 Q Who?

17 A Okay. Give me a minute to think. Veteran  
18 journalist Ken Auletta made that, a statement to that  
19 effect. William Gaines won the Pulitzer prize.

20 Q What did William Gaines --

21 MR. DEAN: Hold on.

22 Q -- win a prize for?

23 MR. DEAN: Let him finish his answer,  
24 please.

25 MR. SASSER: Okay.

1       **A**    William Gaines won the Pulitzer prize for  
2 posing as a janitor for the Chicago Sun Times being  
3 asked to assist with surgery. And there have been  
4 countless others throughout the 20th century. Upton  
5 Sinclair is considered a legend for misrepresenting  
6 himself.

7       **Q**    Who's doing that now other than Project  
8 Veritas?

9       **A**    Very few people.

10      **Q**    Did Upton Sinclair dress up like a pimp?

11      **A**    I don't believe so.

12      **Q**    But you've done that, haven't you?

13      **A**    Yes.

14      **Q**    Did Mr. Gaines wear lederhosen?

15      **A**    I can't remember what he wore.

16      **Q**    But you've sent people on projects wearing  
17 lederhosen, haven't you?

18      **A**    Yes.

19      **Q**    So it's more theater than reporting, isn't it?

20      **A**    No.

21      **Q**    Do you refer to your projects as  
22 investigations?

23      **A**    Yes.

24      **Q**    What are you trying to find out in your  
25 investigations?

1       **A     Sometimes.**

2       Q     In the sting involving Shirley Teter, who was  
3     the target?

4       **A     I object to the characterization of what that**  
5     **was.   The investigation involved Democracy Partners.**

6       Q     And were they the target?

7       **A     They were the subject of the investigation.**

8       Q     What's the difference between subject and  
9     target with regard to what Project Veritas does?

10      **A     Nomenclature.**

11      Q     Which one is accurate?

12      **A     They're, I suppose they're used**  
13     **interchangeably in, in investigative journalism.**

14      Q     Are they used interchangeably at Project  
15     Veritas?

16      **A     Occasionally.**

17      Q     Is Project Veritas a news organization?

18      **A     Yes.**

19      Q     Does Project Veritas put its reporting in  
20     context?

21      **A     Yes.**

22      Q     And you expect other organizations to add  
23     context to their sources?

24      **A     I don't know what you mean.**

25      Q     You expect other news organizations to do

1 Q It's a issue of opinion as to whether or not  
2 you're a journalist?

3 A It's not a matter of opinion. It's a fact  
4 that we are.

5 Q What is it that Project Veritas does that  
6 makes its people journalists?

7 A Well, we believe that journalism is an  
8 activity, not an identity. Journalism is something  
9 that you do and the purest form of journalism is to  
10 report people in their own words and to report that  
11 accurately to the masses. So therefore, we believe  
12 that what we do is the purest form of journalism.

13 Q And you're aware that the vast majority of  
14 journalists does not lie to people in order to get  
15 quotes from them?

16 A Well, I would say the vast majority of the  
17 people that you may be referring to are not themselves  
18 journalists.

19 Q You're saying a reporter who is able to tell a  
20 story without lying to his sources is not really a  
21 journalist?

22 A No, that's not what I'm saying.

23 Q What are you saying?

24 A I'm saying that many of the people in the  
25 media may be pundits or commentators or aggregators.

1 Q So it's not really fair to say whether  
2 somebody's a journalist or not?

3 A I'm doing my best, but I would prefer to, to,  
4 to clarify that the question of whether or not you are  
5 a journalist depends upon what it is that you do, not  
6 who you are.

7 Q What you're doing at a particular moment?

8 A What you're doing in a particular reporting  
9 assignment or investigation.

10 Q So of all the people you've listed as  
11 journalists, do you know of any of them ever using a  
12 fictitious name?

13 A Yes.

14 Q Who?

15 A Well, Gunter Wallraff has done that.

16 Q All right. Anyone else?

17 A Yes.

18 Q Who?

19 A I'm trying to remember the specific instances.  
20 ABC News has done that.

21 Q Who at ABC News has done that?

22 A There was a show called Primetime Live. Diane  
23 Sawyer was the, the anchor of the program.

24 Q So who used a fictitious name?

25 A I don't remember the names of the reporters on

1 the assignment, on that particular assignment.

2 Q All right. Other than that, out of all the  
3 journalists you've named, who has used a fictitious  
4 name?

5 A The Chicago Sun Times in the 1970s conducted a  
6 number of newspaper investigations. I believe it was  
7 a, a bar called the Mirage that they owned and  
8 operated.

9 Q Did those people use fictitious names?

10 A In, in various circumstances, yes.

11 Q Of the people you've named as journalists,  
12 which of them have worn disguises?

13 A Well, the most famous example of that would be  
14 Gunter Wallraff who's considered by almost everyone to  
15 be a journalist.

16 Q Has Ronan Farrow ever, ever worn a disguise on  
17 a story?

18 A I don't know.

19 Q What about Jane Mayer?

20 A I don't know.

21 Q What about Mr. Rosen?

22 A I don't know.

23 Q What about Joel Pollak?

24 A I don't know.

25 Q What fictitious names have you used?

1 me. I believe he worked for People for the American  
2 Way. I, I'd have to double check what the name of the  
3 entity was.

4 Q Have you heard of an organization called  
5 Americans United for Change?

6 A American United for Change, that was the one,  
7 yes. My mistake.

8 Q Is that some sort of offshoot of People for  
9 the American Way?

10 A No, I don't, I don't think they're connected.  
11 I'd, I'd forgotten the name of the entity until you  
12 just said it.

13 Q Okay. Do you know who's in charge of  
14 Americans United for Change?

15 A I did know that. I don't remember that here  
16 right now.

17 Q It wasn't Mr. Foval though?

18 A I don't believe so. I believe he had a  
19 position of authority there of some type.

20 Q What was the relationship between Americans  
21 United for Change and Democracy Partners?

22 A Well, I recall Foval saying something to the  
23 effect of wear the white hat and Bob Creamer is the  
24 dark hat, descriptions made by Mr. Foval about his  
25 relationship with Bob Creamer.

1 Q That was in the April 2016 interview?

2 A Yes.

3 Q Do you know what relationship, if any,  
4 Democracy Partners had with the Hillary Clinton  
5 campaign in 2016?

6 A I, I, I've learned, I've learned that they did  
7 indeed have a relationship.

8 Q What was that?

9 A Well, I -- it would be great if I could refer  
10 to the transcript of Foval. In the video, he  
11 references how the Hillary Clinton campaign, the DNC  
12 or there's some relationship between the Hillary  
13 Clinton campaign, the DNC, Democracy Partners.  
14 There's a, there's a connection there, funding  
15 connection that helps implement activities.

16 Q Recall some language about Hillary knows about  
17 it through the chain of command?

18 A Yes.

19 Q And who said that?

20 A That was Bob Creamer, the head of Democracy  
21 Partners.

22 Q So that was later, that was not the original  
23 Foval interview?

24 A Correct. There was multiple series of  
25 meetings that occurred.

1 that sometimes our journalists have sources and I  
2 don't know the extent of everyone that they talk to.  
3 But to repeat, we don't report anything unless you can  
4 see and hear the people on tape saying it. That's my  
5 responsibility to ensure that we accurately report the  
6 content and the context of the people that we interact  
7 with. So ultimately, I would be ultimately  
8 unconcerned if I did learn of those surprises.

9 Q It's easier for you to supervise people at  
10 headquarters than it is the journalists on the field,  
11 isn't it?

12 A Not necessarily.

13 Q If you were to try to find out who the eighth  
14 person imbedded as you told Mr. Hannity was, who would  
15 you, what records would you need to consult?

16 A I would have to take a look at old e-mails.  
17 I'd have to consult our chief compliance officer about  
18 whether or not these records still even exist. I  
19 would also say that I think it's unethical for me to  
20 disclose -- it's -- I, I, I will do so, but I  
21 personally and my conscience objects to having to  
22 disclose the identity of our sources. If this was  
23 done in any other context, any investigative  
24 journalist worth their soul would object to having to  
25 identify some of the sources they used to obtain the

1       **A**    Oh, excuse me, excuse me. I understand. The,  
2   that would be Allison Maass.

3       **Q**    Talking to Bob Creamer?

4       **A**    That is correct.

5       **Q**    All right. And Bob Creamer is the guy with  
6   the suspenders that we're looking at now?

7       **A**    Yes.

8       **Q**    All right.

9                               (Video Plays)

10      **Q**    Who's talking?

11      **A**    That's me.

12      **Q**    All right. And who wrote what you're saying  
13   there?

14      **A**    Joe Halderman.

15      **Q**    All right. Continue.

16                               (Video Plays)

17      **Q**    Now you made a cut from -- you were talking  
18   about Shirley Teter to that's Mr. Foval?

19      **A**    Yes.

20      **Q**    Saying she was one of our activists?

21      **A**    Yes.

22      **Q**    How did you know he was talking about her?

23      **A**    May I see the transcript of the surrounding  
24   minutes associated with this video so that I may  
25   properly and accurately answer your question?

1       **A**    **I believe I've seen it but not for a long**  
2 **time.**

3       **Q**    Did you mention earlier that you've seen a  
4 transcript yesterday?

5       **A**    **Yes.**

6       **Q**    And that's something other than this?

7       **A**    **Yeah, it wasn't identical to this. It may**  
8 **have been a consolidated version.**

9       **Q**    Okay.

10       **A**    **I just need to read these sheets of paper here**  
11 **that are relevant to this video. Okay. Can you ask**  
12 **me your question again? I'll do my best to --**

13               MR. SASSER: Can you read back the  
14 question?

15               (QUESTION WAS READ BACK BY COURT REPORTER)

16       **A**    **Well, based upon the interactions between the**  
17 **journalist, our journalist and Scott Foval, he was**  
18 **clearly referring to her in the -- while he didn't**  
19 **mention her by name based upon the conversations that**  
20 **they have, Scott Foval was referring to Miss Teter.**

21       **Q**    The transcript in front of you has no  
22 reference to Shirley Teter, does it?

23       **A**    **It does.**

24       **Q**    You see the name Shirley Teter? Can you show  
25 me the line?

1       A    Oh, no, I don't see the name.

2       Q    Okay.

3       A    I do see references to, to the, to, to Miss  
4 Teter.

5       Q    Okay. Tell me where the reference is.

6       A    Yes. The, the -- on page 42 of the transcript  
7 of the conversation between Christian Hartsock and  
8 Scott Foval, it says from the lady who got  
9 cold-cocked, cold-cocked. That was you guys, I'm  
10 reading the transcript. That's the kind of shit,  
11 that's the kind of shit that he and I tickles him.  
12 Scott Foval confirms that the incident in question was  
13 the stuff that they do. On page 80, they refer to  
14 what do you do to punch an old lady. Elderly, old  
15 lady confirms that it's an elderly individual later in  
16 life. This meeting occurred three days, I'm sorry,  
17 three days within the incident in question at the  
18 rally. So it was in the news and the journalists and  
19 Scott Foval are clearly referencing that situation  
20 that happened days previous. And Scott Foval  
21 references on page 83 of the transcript, this is where  
22 he says, pardon me one second as I find it. That this  
23 person, she, North Carolina was one of our activists  
24 who had been quote, "trained up to birddog."

25       Q    I'm sorry. We're on page 83?

1       **A     83.**

2       Q     Where's it say North Carolina?

3       **A     North Carolina is on page 42.**

4       Q     How do you know they're talking about the same  
5 person?

6       **A     It says cold-cocked. That was you guys.**

7       Q     Does that say North Carolina?

8       **A     It says in the conversation between the  
9 journalist and the subject in the same -- this is from  
10 this, this interaction between the journalists and  
11 Scott Foval. They're clearly referring to someone in  
12 North Carolina in the same meeting that occurred for,  
13 I don't know how long it was. I suppose a couple of  
14 hours, maybe less. They're referring to people that  
15 Scott Foval says that he trained. It's unclear  
16 whether they were paid or not, but again Scott Foval  
17 is making these claims about somebody in North  
18 Carolina.**

19       Q     Do you see anything on page 83 about North  
20 Carolina?

21       **A     Not on page 83, no.**

22       Q     And you referred to an elderly lady on page  
23 80?

24       **A     Yes.**

25       Q     You see there at the bottom of the page, can

1       **A     Because I believe journalism is an activity,**  
2 **not an identity, and we should evaluate the media or**  
3 **journalism entity by the fruits of what they do.**

4       Q     Did Sinclair end up having the opportunity to  
5 be the first to break the story?

6       **A     I believe they did.**

7       Q     And did they take that opportunity?

8       **A     They did not.**

9       Q     What was the expression you used? Did they,  
10 they cut you loose or whatever? What was the -- do  
11 you remember what you said?

12       **A     I'm sorry?**

13       Q     What, what was it that Sinclair did?

14       **A     They chose not to launch the story.**

15       Q     Let me show you.

16                               (Video Plays)

17       Q     Spiked. That's you talking about Sinclair?

18       **A     Yes.**

19       Q     What do you mean by they spiked the story?

20       **A     Spiked means to cancel a story or to choose**  
21 **not to publish a story oftentimes right before that,**  
22 **that was supposed to happen.**

23       Q     Why did they do that?

24       **A     Well, let me think. I'm not certain. I was**  
25 **never able to ascertain with certainty why they did**

1 it.

2 Q Did anybody ever tell you why they did it?

3 A I did have a conversation with someone there  
4 and he made some statements.

5 Q Who was that?

6 A His name was John Solomon.

7 Q And what did Mr. Solomon say?

8 A I don't -- I'm assuming you have the exhibit.  
9 If I can look at it, otherwise, I'll have to just  
10 paraphrase.

11 Q Okay.

12 A It was him saying he had Bob Creamer in his  
13 offices right now. This is when he spoke to me. And  
14 he said sometimes these decisions are made, I believe  
15 he said something to the effect of at a higher up  
16 level and it was circumstances not in his control,  
17 something to that effect.

18 Q What was Mr. Solomon's position at Sinclair  
19 Media?

20 A I believe he was the C, chief operations  
21 officer of Circa which is an arm of Sinclair.

22 Q What do they do?

23 A They're investigative journalists.

24 Q At the same time that you were having trouble  
25 with Sinclair spiking the story, were you also having

1 Q And as a result, they did not run the story,  
2 right?

3 A I don't know what that resulted from.

4 Q You were aware that Mr. Creamer was in Mr.  
5 Solomon's office, right?

6 A Yes.

7 Q Are you familiar with a practice of  
8 journalists giving a subject of one of their stories  
9 the opportunity to respond?

10 A Yes.

11 Q And you don't adhere to that?

12 A Well, the extent to our ethical obligation is  
13 to report accurately what we hear and see coming out  
14 of the subject's own mouth. That is their, that often  
15 is their response.

16 Q And if they say something about a third-party,  
17 you don't have any obligation to investigate that?

18 A Not in the discipline of what we do, no.

19 Q No matter how innocent that person may be?

20 A In this case, the story is about Scott Foval  
21 and claims that he made. That's what the story is  
22 about.

23 Q And if Scott Foval had said Shirley Teter is  
24 one of our prostitutes, you have no obligation to  
25 follow-up on that?

1       **A**     That would, that, that -- we make  
2     determinations about what is newsworthy and, and as  
3     evidenced by this New York Times story, it's fairly  
4     newsworthy what these people were saying and doing and  
5     claiming. It was very, it was so newsworthy that it  
6     made CNN. The other, the other parts of the material  
7     rose to that standard. So our ethical obligation  
8     extends to reporting accurately what we see and what  
9     we hear and that rises well far above and beyond the  
10    ethical obligations of traditional journalists do not  
11    disclose their sources. They don't even disclose raw  
12    transcripts of their interviews with sources. So  
13    we're being held to a standard that is well above and  
14    beyond the standard that is expected of any  
15    award-winning journalist.

16       **Q**     By October the 21st, you knew that Shirley  
17    Teter denied being a birddogger, didn't you?

18       **A**     I don't recall.

19       **Q**     Well, if you look at this e-mail you sent  
20    around to your counselors, you see that Shirley Teter  
21    denied to the New York Times that she had any protest  
22    training. You see that?

23       **A**     Okay.

24       **Q**     I mean, you read it before you sent it around  
25    to your counselors, didn't you?

1 STATE OF NORTH CAROLINA

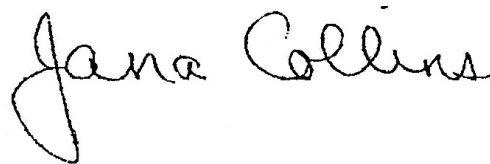
2 COUNTY OF FORSYTH

3 REPORTER'S CERTIFICATE

4 I, Jana Collins, a Notary Public in and for  
5 the State of North Carolina, do hereby certify that  
6 there came before me on Wednesday, the 28th day of  
7 November, 2018, the person hereinbefore named, who was  
8 by me duly sworn to testify to the truth and nothing  
9 but the truth of his knowledge concerning the matters  
10 in controversy in this cause; that the witness was  
11 thereupon examined under oath, the examination reduced  
12 to typewriting under my direction, and the deposition  
13 is a true record of the testimony given by the  
14 witness.

15 I further certify that I am neither attorney  
16 or counsel for, nor related to or employed by, any  
17 attorney or counsel employed by the parties hereto or  
18 financially interested in the action.

19 IN WITNESS WHEREOF, I have hereto set my hand,  
20 this the 11th day of December, 2018.

21   
22  
23

24 Jana Collins, Notary Public

25 Notary Number: 200733100028